(2) Southwestern Bell Mobile Systems



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Linda M. Hood Attorney Via Airborne

February 19, 1993

Ms. Donna Searcy Office of the Secretary Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

RE: ET Docket 93-1; Filing of Comments of Southwestern Bell Mobile Systems, Inc.

Dear Ms. Searcy:

Enclosed for filing in the above referenced docket are the original and ten copies of the Comments of Southwestern Bell Mobile Systems, Inc. on Notice of Proposed Rule Making. Please file these comments among the papers in this docket.

Please return a file marked copy of the Comments to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance.

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Enclosure

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C.

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to Prohibit Marketing of Radio Scanners Capable of	§ §	ET I	Jocker	NO.	33-1
Intercepting Cellular	§				
Telephone Conversations	§				

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COMMENTS OF SOUTHWESTERN BELL MOBILE SYSTEMS, INC. ON NOTICE OF PROPOSED RULE MAKING

> Wayne Watts Linda Hood SOUTHWESTERN BELL MOBILE SYSTEMS, INC. 17330 Preston Road, Suite 100A Dallas, Texas 75252 (214) 733-2008

Dated: February 22, 1993

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C.

In the Matter of	§				
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Amendment of Parts 2 and 15	8				
to Prohibit Marketing of	§	\mathbf{ET}	Docket	No.	93-1
Radio Scanners Capable of	§				
Intercepting Cellular	§				
Telephone Conversations	§				

To: The Federal Communications Commission

COMMENTS OF SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

Southwestern Bell Mobile Systems, Inc. ("SBMS") submits these comments in the above-captioned proceeding. SBMS is one of the largest cellular carriers in the United States, and provides service to a significant number of customers both in the wireline and nonwireline markets, and in both large and small markets.

I. Background

On January 13, 1993, the Commission released its Notice of Proposed Rule Making in this docket relating to rules prohibiting manufacture or importation of scanners capable of receiving frequencies allocated to Domestic Public Cellular Radio Service. In the NPRM the Commission proposed amending Parts 2 and 15 of its rules in response to Congress' directive in the Telephone Disclosure and Dispute Resolution Act, with

the goal of increasing the privacy protection of cellular telephone users without unduly restricting legitimate users of scanners. In addition, the Commission sought comments on several variations of its proposed rules.

II. Equipment Authorization Requirements

SBMS supports the FCC's proposed rules affirmations that scanning receivers and frequency converters cannot receive cellular frequencies and cannot be readily altered to receive such frequencies as a prerequisite to equipment authorization. As a cellular carrier, SBMS is understandably concerned about increased privacy for its customers' communications over cellular phones. service, although part of a young and developing industry, is no longer a luxury or oddity utilized only by an elite few. It is a service rapidly spreading to all segments of the population. Those users, accustomed to the privacy of their wireline communications, desire as much privacy as can be reasonably achieved for their wireless communications as well. In addition, future users of the developing Personal Communication Services will expect that same level of privacy for their communications, and the Commission should act now to include in these amended rules proscriptions on scanners that tune frequencies allocated to the Personal Communication Services that will be effective as soon as that allocation is made.

SBMS suggests one other modification of the proposed rules relating to equipment authorization -- to require certification rather than simply "indication" of compliance with the provisions of Section 15.121. SBMS's suggested changes to each of the proposed rules are set forth in Exhibit A, attached hereto and incorporated herein by reference.

SBMS supports the further requirement that manufacturers and importers include a brief description of why a particular type of unit cannot be readily altered. Such a requirement is not unduly burdensome for the manufacturer or importer, since in order to comply with the affirmation requirement it must have already ascertained that the unit cannot be readily altered and why. Because it is necessarily difficult to develop specific articulated standards for what can be "readily altered" it benefits both the applying manufacturer or importer and the FCC to have the applicant set forth the reason a particular unit cannot be readily altered to tune cellular frequencies. The applicant benefits because it then has comfort that the FCC understands the some capabilities and the basis for the applicant's certification. The FCC benefits from having the objective information it needs to make an authorization decision on a particular piece of equipment. Without a description of why the unit cannot be readily altered, the FCC must simply rely upon the applicant's assurance that it meets the FCC's standard, and the applicant must hope that if and when the unit's "alterability" ever

comes under scrutiny that it made the correct judgment about whether the unit did or did not meet the Commission's descriptive standard. Suggested language to incorporate this requirement is included in Exhibit A.

III. <u>Digital to Analog Decoders</u>

The Commission has proposed to deny equipment authorization to any scanning receiver that can be equipped with decoders that convert digital cellular transmissions to analog voice audio. SBMS supports that proposal. One of the benefits of the developing digital technology for cellular, in addition to increased capacity and quality of sound, is its added security. That security is compromised by scanners or decoders that can unscramble the digital signals, and the Commission should deny authorization to such equipment.

IV. Design of Microprocessor Chips

Finally, the Commission has sought comment on whether it should adopt regulations that require that no microprocessor chips in scanners be installed in sockets or that prohibit models capable cellular microprocessor of tuning transmissions. SBMS supports adoption of regulations incorporating both of these safeguards for the security of cellular transmissions, perhaps on a phased-in basis to allow manufacturers time to design chips incapable of tuning cellular frequencies. Focusing on the nature of microprocessor chip requires that the second requirement that the chip not simply plug into the scanner - also be

imposed to ensure that the scanners using newly developed chips are not readily alterable.

V. <u>Conclusion</u>

Therefore, SBMS endorses the rules proposed by the Commission in this docket, with some minor modifications. Cellular transmissions are meant to be private communications between specific individuals, not broadcast transmissions for Appropriate regulations to help ensure the general public. that privacy need to be enacted, and the regulations proposed here do not infringe on the rights of legitimate scanner users and manufacturers with respect scanners that to tune frequencies other than those dedicated to the cellular radio service.

Respectfully submitted,

SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

Wavne Watts,

Y.P.-General Attorney

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Its Attorneys.

February 22, 1993

Exhibit A Suggested Changes to Proposed Rules

Section 2.975 Application for notification.

(a) ***

(8) Applications for the notification of receivers contained in frequency converters used with scanning receivers shall be accompanied by an exhibit indicating certifying compliance with the provisions of Section 15.121 of this Chapter. The exhibit shall also contain a concise explanation of why the receiver is incapable of being readily altered to operate within any frequency bands allocated to either the Domestic Public Cellular Radio Telecommunications Service or Personal Communication Services.

Section 2.1033 Application for certification.

(b) ***

(12) Applications for the certification of scanning receivers under Part 15 shall be accompanied by an exhibit indicating certifying compliance with the provisions of Section 15.121 of this Chapter. The exhibit shall also contain a concise explanation of why the receiver is incapable of being readily altered to operate within any frequency bands allocated to either the Domestic Public Cellular Radio Telecommunications Service or Personal Communication Services.

Section 15.37 Transition provisions for compliance with the rules.

- (f) The manufacture or importation of scanning receivers, and frequency converters used with scanning receivers, that do not comply with the provisions of Section 15.121 of this Part shall cease on or before April 26, 1994. Effective April 26, 1993, the Commission will not accept applications for equipment authorization for receivers that do not comply with the provisions of Section 15.121 of this Part. This paragraph does not prohibit the sale or use of authorized receivers manufactured in the United States or imported into the United States prior to April 26, 1994.

Section 15.121 Scanning receivers and frequency converters used with scanning receivers.

Scanning receivers, and frequency converters used with scanning receivers, must be incapable of operating (tuning), or readily being altered by the user to operate, within the any frequency bands allocated to either the Domestic Public Radio Telecommunications orCellular Service Communication Services. Receivers and frequency converters used with scanning receivers capable of "readily being altered by the user" include, but are not limited to, those for which the ability to receive transmissions in the restricted bands can be added by clipping the leads of, or installing, a diode, resistor and/or jumper wire; or replacing a plug-in and frequency semiconductor chip. Scanning receivers, converters used with scanning receivers, must also be incapable of converting digital cellular transmissions to analog voice audio or of being readily equipped with or attached to a decoder that can convert digital cellular transmissions to analog voice audio.